

Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 HA-05 SSO-00 SS-15 IO-13 CIAE-00
INR-10 NSAE-00 INRE-00 /054 W
-----099767 130433Z /12
O 130315Z SEP 78
FM AMEMBASSY KATHMANDU
TO SECSTATE WASHDC IMMEDIATE 3264

C O N F I D E N T I A L SECTION 1 OF 4 KATHMANDU 4730

E.O. 11652: GDS
TAGS: SHUM, NP
SUBJECT: 1978 COUNTRY REPORTS OF HUMAN RIGHTS PRACTICES

REF: (A) STATE 212848, (B) STATE 207310

1. THE COUNTRY TEAM HAS REVIEWED THE DRAFT REPORT OF HUMAN RIGHTS PRACTICES IN NEPAL PREPARED BY NEA/INS AND FINDS ITSELF IN LARGE PART IN AGREEMENT THEREWITH. THE CHANGES WHICH HAVE BEEN MADE FROM THE 1977 REPORT ARE, WE BELIEVE, IN MOST CASES IMPROVEMENTS. WITH ONE OR TWO EXCEPTIONS, THE FOLLOWING COMMENTS ARE THEREFORE IN THE NATURE OF REFINEMENTS TO THE DRAFT RATHER THAN BASIC CHANGES. IN EACH CASE, WE HAVE FOLLOWED THE SPECIFIC RECOMMENDATION FOR CHANGE WITH AN EXPLANATION OF OUR REASONS THEREFORE.

2. INTRODUCTORY PARAGRAPH:
-- IN FIRST SENTENCE PLACE A PERIOD AFTER "... CONSTITUTIONAL MONARCHY." START NEW SECOND SENTENCE: "UNDER THE CONSTITUTION THE KING IS THE SOLE..." THERE IS NO INHERENT CONTRADICTION BETWEEN THE AUTHORITY VESTED IN THE KING AND THE CONCEPT OF CONSTITUTIONAL MONARCHY. SUGGESTED CHANGE MAKES THIS CLEAR AND THEN GOES ON TO EXPLAIN THE TYPE OF CON-
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STITUTIONAL MONARCHY WHICH EXISTS IN NEPAL.
"" CHANGE DATE OF CONSTITUTION TO 1962 REPEAT 1962. THIS CORRECTS A FACTUAL INACCURACY WHICH HAS SOMEHOW CARRIED THROUGH THE PREVIOUS TWO REPORTS.

--CHANGE THE LAST SENTENCE TO READ "NONETHELESS, THOSE LAWS AND THE PROVISIONS OF THE CONSTITUTION

RESTRICTING -- OR PROVIDING THE GOVERNMENT WITH THE MEANS TO RESTRICT -- BASIC RIGHTS AND FREEDOMS HAVE NOT BEEN AMENDED OR REPEALED." THE DRAFT CAN BE READ AS IMPLYING THE EXISTENCE OF A NUMBER OF LAWS ACTIVELY RESTRICTING RIGHTS AND FREEDOMS AND A POSITIVE DECISION BY THE GON TO KEEP THOSE RESTRICTIONS IN EFFECT. IN FACT MOST OF THE KEY LAWS -- SUCH AS THE PUBLIC SECURITY ACT OR THE PRESS ACT -- ARE IN THE NATURE OF RESERVE POWERS, GENERALLY NOT BEING APPLIED. ON THE OTHER HAND MANY OF THE ACTIVE RESTRICTIONS -- THE BAN ON POLITICAL PARTIES, IMMUNITY OF THE CROWN FROM CRITICISM -- ARE PART OF THE CONSTITUTION, THE BASIC POLITICAL SYSTEM. CHANGES IN THIS SYSTEM CLEARLY RAISE FUNDAMENTAL ISSUES BEYOND THESE OF RETAINING OR NOT RETAINING INDIVIDUAL LAWS.

3. RESPECT FOR INTEGRITY OF THE PERSON

A. TORTURE: CHANGE TO READ "TORTURE IS PROHIBITED BY LAW IN NEPAL. OCCASIONAL REPORTS OF ABUSES IN NEPALESE PRISIONS HAVE BEEN SECOND-HAND AND UNCONFIRMED. TO THE EXTENT THEY DO OCCUR, WE DO NOT BELIEVE SUCH PRACTICES TO BE WIDESPREAD." WE BELIEVE A SLIGHT MODIFICATION IS IN ORDER TO REFLECT THE REPORTS WE HAVE HAD -- ALBETHEY
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SECOND-HAND. NEPAL'S RECORD ON THIS POINT REMAINS GOOD, BUT IT MAY NOT BE WITHOUT BLEMISH, BOTH FACTS BEING REFLECTED IN THE NEW LANGUAGE.

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O 130315Z SEP 78
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TO SECSTATE WASHDC IMMEDIATE 3265

C O N F I D E N T I A L SECTION 2 OF 4 KATHMANDU 4730

B. CRUEL, INHUMAN ETC: NO CHANGE.

C. ARBITRARY ARREST: CHANGE LAST SENTENCE TO READ, "NEPALESE OPPOSITION FIGURES ESTIMATE THAT APPROXIMATELY 100 PRISONERS... ARRESTED FOR POLITICAL REASONS." WHILE ANY FIGURE IS CLEARLY ONLY AN ESTIMATE, WE HAVE NO BASIS FOR GOING HIGHER THAN THAT CITED TO DEPT OFFICERS BY B.P. AND BY HIS COLLEAGUES HERE TO US.

D. DENIAL OF TRIAL: CHANGE MIDDLE OF THE SENTENCE TO READ "...JUDGES ARE APPOINTED BY THE GOVERNMENT AND IT WOULD BE UNLIKELY THAT A JUDGE WOULD REULE IN FAVOR OF THE DEFENSE WITHOUT AT LEAST TACIT GOVERNMENT APPROVAL IN A CASE INVOLVING POLITICAL CONSIDERATIONS OR ON AN APPEAL..." WE BELIEVE SUBSTITUTING "APPOINTED" FOR "BEHOLDEN" ADDS PRECISION. AS FOR LATER REVISION, THE COURTS RULED AGAINST THE GOVERNMENT IN THE B.P. CASES HEARD TO DATE. THE NEW LANGUAGE IS THUS MORE LITERALLY CORRECT WITHOUT CHANGING THE BASIC POINT.

E. INVASION OF THE HOME: NO CHANGE.

4. GOVERNMENT POLICIES IN ECONOMIC AND SOCIAL
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FIELDS:

-- CHANGE TO READ AS FOLLOWS: "THE GOVERNMENT OF NEPAL HAS ATTEMPTED TO USE ITS SCARCE RESOURCES TO MEET THE BASIC NEEDS OF ITS PEOPLE. BUDGET PROJECTIONS IN THE PAST THREE YEARS HAVE SEEN THE DEVELOPMENT SIDE BUILD UP FROM 64 TO 70 TO 71 PERCENT OF TOTAL ANTICIPATED EXPENDITURES. THE EMPHASIS HAS BEEN ON SEEKING TO INCREASE THE ECONOMIC GROWTH RATE AND ON BUILDING THE COMMUNICATION AND TRANSPORTATION NETWORKS REQUIRED TO INTEGRATE ISOLATED AREAS OF THE COUNTRY. NEPALESE DECISION MAKERS HAVE IN THE PAST FEW YEARS RE-ORIENTED THEIR DEVELOPMENT PROGRAMS TO DEAL MORE DIRECTLY WITH POVERTY. THIS GOAL IS GIVEN PARTICULAR EMPHASIS IN THE CURRENT BUDGET, WITH PROJECTED EXPENDITURE INCREASES OF OVER FIFTY PERCENT IN FIELDS SUCH AS AGRICULTURE, HEALTHMLN RURAL WATER AND

LOCAL GOVERNMENT WHICH TEND TO IMPACT ON THE INDIVIDUAL. THE KING HAS ASSUMED THE LEADERSHIP OF THE ECONOMIC DEVELOPMENT EFFORT AND HIS INSISTENCE THAT PROGRAMS BE SPREAD AMONG THE FOUR DEVELOPMENT REGIONS RATHER THAN CONCENTRATED IN KATHMANDU AND THE LOWLANDS, TENDS TO BENEFIT THE POORER AREAS OF THE COUNTRY.

"PERFORMANCE HAS BEEN MIXED, GENERALLY FALLING SHORT OF PROJECTIONS. BUT NOT ONLY IN TERMS OF THE LEVEL AND DIRECTION OF ACTUAL EXPENDITURES, BUT ALSO IN THE CONTINUING ATTENTION TO ISSUES SUCH AS LAND REFORM AND ANTI-CORRUPTION MEASURES, THE GOVERNMENT HAS BACKED UP ITS WORDS AND PLANS WITH DEEDS." THE CHANGES ARE PRIMARILY AN EFFORT TO MEET THE CALLS FOR GREATER DETAIL AND ATTENTION TO NEW ISSUES
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AS PER PARAS 2.A AND B OF REF (A).

5. RESPECT FOR CIVIL AND POLITICAL LIBERTIES:

A. FREEDOM OF THOUGHT ETC.

-- AFTER FIRST SENTENCE INSERT FOLLOWING "THE PRESS AND PUBLICATION ACT PERMITS THE GOVERNMENT TO BAN SUMMARILY ANY NEWSPAPER FOR OVERSTEPPING THIS LINE OR FOR A NUMBER OF OTHER OFFENSES INCLUDING ACTIONS DEEMED HARMFUL TO THE PRESENT POLITICAL SYSTEM. WHILE THIS POWER HAS BEEN SPARINGLY UTILIZED OVER THE PAST YEAR -- ONLY ONCE AND THAT FOR A CARTOON ATTACK ON THE KING -- IT DOES SERVE AS A CHECK ON THE LOCAL PRESS, AS DOES ALSO THE DEPENDENCE OF THE NEWSPAPERS ON GOVERNMENT ADVERTISING." BOTH THE PRESS ACT AND THE REVENUE ISSUE ARE ONES RAISED FREQUENTLY WITH US BY JOURNALISTS. WHILE THE GOVERNMENT IS CLEARLY BEING MORE JUDICIOUS IN THE APPLICATION OF ITS POWERS THAN WAS THE CASE SEVERAL YEARS AGO, WE BELIEVE -- PARTICULARLY IN VIEW OF THE BANNING OF SAMIKSHA (KATHMANDU 2301) THAT THIS ISSUE NEEDS TO BE ADDRESSED IN THIS YEAR'S REPORT.

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FM AMEMBASSY KATHMANDU

TO SECSTATE WASHDC IMMEDIATE 3266

C O N F I D E N T I A L SECTION 3 OF 4 KATHMANDU 4730

-- CHANGE PREVIOUS SECOND SENTENCE OF FIRST
PARA TO READ "THE TWO PRINCIPAL DAILY NEWSPAPERS -- ONE NEPALI,
THE OTHER ENGLISH ARE GOVERNMENT ORGANS, -- BUT NUMEROUS OTHER
NEWSPAPERS..." THE OLD LANGUAGE WAS MISLEADING ON THE EXTENT OF
THE GON'S DIRECT QUANTITATIVE CONTROL OVER THE
PRESS. WE BELIEVE IT IS A POINT WORTH MAKING
THAT THERE ARE IN FACT ONLY TWO NEWSPAPERS
UNDER SUCH DIRECT CONTROL.

-- CHANGE SECOND SENTENCE OF SECOND PARA
TO READ "THE GOVERNMENT EXERCISES COMPLETE CONTROL
OVER ALL ASSOCIATIONS THROUGH A TWO-TIERED PRO-
CESS OF APPROVAL INVOLVING FIRST CONCURRENCE AT
NATIONAL LEVEL AND THEN REGISTRATION WITH THE
LOCAL AUTHORITIES." THE GOVERNMENT HAS STRENGTHENED
ITS CONTROL OVER ASSOCIATIONS BY REQUIRING, EFFECTIVE
EARLIER THIS YEAR, THE APPROVAL AT THE NATIONAL LEVEL OF A
COMMITTEE OF THE BACK TO THE VILLAGE NATIONAL
CAMPAIGN IN ADDITION TO THE PREVIOUS REGISTRATION
PROCESS. NEW LANGUAGE REFLECTS THIS ADDED CONTROL.

-- ADD A NEW PARA THREE AS FOLLOWS: "THE
ADVOCACY AND PROTECTION OF THE INTERESTS OF SPECIAL
GROUPS -- E.G. LABOR, WOMEN ETC -- IS THE RESPON-
SIBILITY OF THE CLASS ORGANIZATIONS ESTABLISHED UNDER
THE CONSTITUTION. IN GENERAL THESE ORGANIZATIONS
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APPEAR INEFFECTIVE, BEING HIGHLY DECENTRALIZED AND
WITH LITTLE IF ANY AUTHORITY TO ACT ON BEHALF OF THEIR
MEMBERS. HOWEVER, THE ISSUE OF THE RIGHTS OF THESE
SPECIAL INTEREST GROUPS GOES WELL BEYOND EFFORTS OF
GOVERNMENT TO RETAIN AN ELEMENT OF CONTROL,
-- IT INVOLVES THE BASIC NATURE OF THE ECONOMY AND
SOCIETY. THE EXISTING RESTRICTIONS ON WOMEN'S
RIGHTS, FOR EXAMPLE -- BE THEY LEGAL OR TRADI-
TIONAL -- APPEAR TO BE FAR MORE A REFLECTION OF
NEPALESE HISTORY, RELIGION AND SOCIAL PATTERS

THAN ANY CONSCIOUS EFFORT OF THE GOVERNMENT TO REPRESS WOMEN FOR POLITICAL REASONS. IN FACT THE GOVERNMENT MADE A NUMBER OF CHANGES IN FAVOR OF WOMEN'S RIGHTS IN 1975 AT THE TIME OF INTERNATIONAL WOMEN'S YEAR, BUT THE IMPLEMENTATION OF THESE CHANGES IN THE FACE OF SOCIAL PRESSURES HAS BEEN SLOW." ABOVE ADDITION REFLECTS CALL IN PARA 2.C REF (A) TO ADDRESS THESE ISSUES. IT ALSO CORRECTS LAST YEAR'S REFERENCE TO A LABOR UNION, WHICH DOES NOT EXIST.

-- LAST PARA: ADD FOLLOWING TWO SENTENCES AFTER DISCUSSION OF RELIGION. "CASTES ARE STILL RECOGNIZED IN NEPAL, BUT UNDER THE LAW ALL PERSONS ARE TO BE TREATED AS EQUALS REGARDLESS OF CASTE. SOCIAL BARRIERS, AS DISTINCT FROM LEGAL ONES, REMAIN BUT THE GOVERNMENT IS USING ITS INFLUENCE IN ATTEMPTING TO DISMANTLE THESE AS WELL." THIS ADDITION REFLECTS CALL PARA 2.C REF (A) TO ADDRESS THIS SUBJECT.

B. FREEDOM OF MOVEMENT: CHANGE TO READ AS FOLLOWS: "THERE ARE NO GENERAL RESTRICTIONS ON MOVEMENT WITHIN THE COUNTRY OR ABROAD, BUT THE

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GOVERNMENT EXERCISES TIGHT CONTROL OVER THE ISSUANCE OF PASSPORTS, OFTEN RESTRICTS THEIR VALIDITY TO SPECIFIED COUNTRIES, AND SOMETIMES REFUSED TO ISSUE THEM." LAST YEAR'S REPORT WAS INACCURATE, AS WAS POINTED OUT TO US BY SEVERAL NEPALESE. CHANGE IS A FACTUAL UPDATE TO REFLECT THE SITUATION AS IT IS.

C. FREEDOM TO PARTICIPATE IN THE POLITICAL PROCESS:

-- WE HAVE REARRANGED THE SENTENCE ORDER TO DEAL WITH THE PANCHAYAT SYSTEM FIRST AND THEN WITH THE GOVERNMENT'S ATTITUDE TOWARDS DISSIDENTS.

-- AT END OF WHAT IS NOW THE SECOND SENTENCE ADD:"... NATIONAL PANCHAYATS (ASSEMBLIES), ALTHOUGH THIS INTERFERENCE HAS BEEN EASED SOMEWHAT BY THE DECISION TO PERMIT COMPETITION IN ELECTIONS WHEN GENUINE CONSENSUS IN FAVOR OF A SINGLE CANDIDATE DOES NOT EXIST." THIS CHANGE RECOGNIZES THE ELIMINATION IN THE LATEST ELECTIONS OF THE ENFORCED CONSENSUS SYSTEM, WHILE STILL RECOGNIZING THE STRONG GOVERNMENT HAND IN CANDIDATE SELECTION.

-- IN WHAT IS NOW THE THIRD SENTENCE, CHANGE BEGINNING TO READ "THE GOVERNMENT HAS SHOWN A MORE TOLERANT ATTITUDE..." AND LATER MAKE FOLLOWING INSERT

""...ASSOCIATED WITH FORMERLY LEGAL POLITICAL..."

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O 130315Z SEP 78
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C O N F I D E N T I A L SECTION 4 OF 4 KATHMANDU 4730

THE FIRST CHANGE IS ONE OF TONE, CUTTING BACK
A BIT ON DEGREE OF CHANGE IN THE GOVERNMENT'S
ATTITUDE. THE SECOND MAKES IT CLEAR THAT THE
POLITICAL PARTIES REMAIN BANNED EVEN IF IN-
DIVIDUALS TEND TO CARRY ONE OF THE OLD LABELS.
-- CHANGE TWO SENTENCES DEALING WITH B.P.
TO READ "B.P. KOIRALA, NEPAL'S FORMER PRIME
MINISTER AND PRIMARY OPPOSITION FIGURE, HAS
TWICE BEEN TEMPORARILY RELEASED FROM PRISON
FOR MEDICAL TREATMENT IN THE UNITED STATES AND
WAS NOT REARRESTED ON HIS LATEST RETURN TO
NEPAL, AS HE HAD BEEN ON THE PREVIOUS OCCASION.
HE HAS BEEN ACQUITTED ON FIVE OF SEVEN CRIMINAL
CHARGES AND REMAINS FREE ON PAROLE IN KATHMANDU
PENDING THE OUTCOME OF HIS CONTINUING TRIAL AND
THE APPEAL PROCESS." FOR THOSE WHO KNOW NEPAL
-- AND THIS IS PRESUMABLY OUR PRIMARY AUDIENCE --
THE FACT THAT B.P. IS FREE WITHIN REPEAT WITHIN
THE COUNTRY IS A POINT OF SOME IMPORTANCE. OUR
CHARGES SEEK TO BRING THIS OUT CLEARLY. IN
ADDITION, EVENTS TO DATE APPEAR TO WARRANT THE
ADDED REFERENCE TO THE APPEAL PROCESS IN ADDITION
TO THE BASIC TRIAL.

6. GOVERNMENT ATTITUDE ON OUTSIDE INVESTIGATIONS:

-- LAST SENTENCE: CAN WE DO BETTER THAN

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"SEVERAL..."? WE DO NOT HAVE A LIST OF THOSE IN
WHOM AMNESTY INTERNATIONAL HAS TAKEN PARTICULAR
INTEREST. "A NUMBER..." OR PERHAPS EVEN "MOST..."
MIGHT BE EQUALLY ACCURATE. IN THE ABSENCE OF PRECISE
KNOWLEDGE, WE PROPOSE "SOME" AS THE BEST FORMULATION.

7. SEPTTEL TRANSMITS INTEGRAL TEXT WITH ABOVE
REVISIONS.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: REPORTS, HUMAN RIGHTS
Control Number: n/a
Copy: SINGLE
Draft Date: 13 sep 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978KATHMA04730
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780371-0966
Format: TEL
From: KATHMANDU
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780973/aaaachwww.tel
Line Count: 397
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 8bcfdf51-c288-dd11-92da-001cc4696bcc
Office: ACTION NEA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 8
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 STATE 212848, 78 STATE 207310
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 10 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1455948
Secure: OPEN
Status: NATIVE
Subject: 1978 COUNTRY REPORTS OF HUMAN RIGHTS PRACTICES
TAGS: SHUM, NP
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/8bcfdf51-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014